

SENATE BILL 451

I2

2lr1882
CF 2lr1657

By: **Senators Middleton, Astle, Glassman, Kelley, Kittleman, Klausmeier, and Pipkin**

Introduced and read first time: February 2, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation – Finder’s Fees – Table–Funded Loans**

3 FOR the purpose of altering the definitions of “finder’s fee”, “lender”, and “mortgage
4 broker” for purposes of certain provisions of law governing finder’s fees charged
5 by mortgage brokers to clarify that, in a table–funded mortgage loan
6 transaction, fees charged by the person named as the lender in certain
7 documents evidencing the loan indebtedness are not considered finder’s fees;
8 establishing a certain statute of limitations; defining a certain term; providing
9 for the application of this Act; and generally relating to finder’s fees.

10 BY repealing and reenacting, with amendments,
11 Article – Commercial Law
12 Section 12–801
13 Annotated Code of Maryland
14 (2005 Replacement Volume and 2011 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Commercial Law
17 Section 12–804(e)
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2011 Supplement)

20 BY adding to
21 Article – Commercial Law
22 Section 12–810
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2011 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Commercial Law

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12–801.

(a) In this subtitle the following words have the meanings indicated.

(b) “Borrower” means an individual who obtains a loan or advance of money.

(c) “Commissioner” means the Commissioner of Financial Regulation.

(d) **(1)** “Finder’s fee” means any compensation or commission directly or indirectly imposed by a **MORTGAGE** broker and paid by or on behalf of the borrower for the **MORTGAGE** broker’s services in procuring, arranging, or otherwise assisting a borrower in obtaining a loan or advance of money.

(2) “FINDER’S FEE” DOES NOT INCLUDE ANY COMPENSATION OR COMMISSION DIRECTLY OR INDIRECTLY PAID IN A TABLE-FUNDED TRANSACTION TO THE PERSON NAMED AS THE LENDER IN A LOAN AGREEMENT, NOTE, MORTGAGE, DEED OF TRUST, OR OTHER EVIDENCE OF INDEBTEDNESS.

(e) **(1)** “Lender” means a person defined as a mortgage lender under § 11–501(j)(1)(ii) of the Financial Institutions Article.

(2) “LENDER” DOES NOT INCLUDE A MORTGAGE BROKER.

(f) **(1)** “Mortgage broker” [means a person defined as a mortgage lender under § 11–501(j)(1)(i)] **HAS THE MEANING STATED IN § 11–501(I)** of the Financial Institutions Article.

(2) “MORTGAGE BROKER” DOES NOT INCLUDE A PERSON IN A TABLE-FUNDED TRANSACTION WHO IS NAMED AS THE LENDER IN THE LOAN AGREEMENT, NOTE, MORTGAGE, DEED OF TRUST, OR OTHER EVIDENCE OF INDEBTEDNESS.

(g) “Person” includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(H) “TABLE-FUNDED TRANSACTION” MEANS A MORTGAGE LOAN TRANSACTION IN WHICH:

(1) THE LOAN PROCEEDS:

1 **(I) ARE NOT FUNDED BY THE PERSON NAMED AS THE**
2 **LENDER IN THE LOAN AGREEMENT, NOTE, MORTGAGE, DEED OF TRUST, OR**
3 **OTHER EVIDENCE OF INDEBTEDNESS; AND**

4 **(II) ARE FUNDED BY A PERSON TO WHOM THE LOAN IS**
5 **ASSIGNED CONTEMPORANEOUSLY WITH FUNDING; AND**

6 **(2) THE PERSON FUNDING THE LOAN OR ANY OWNER, PART**
7 **OWNER, OFFICER, DIRECTOR, OR EMPLOYEE OF THE PERSON FUNDING THE**
8 **LOAN IS NOT AN OWNER, PART OWNER, PARTNER, OFFICER, DIRECTOR, OR**
9 **EMPLOYEE OF A MORTGAGE BROKER CHARGING A FINDER'S FEE IN**
10 **CONNECTION WITH THE LOAN TRANSACTION.**

11 12-804.

12 (e) A mortgage broker may not charge a finder's fee in any transaction in
13 which the mortgage broker or an owner, part owner, partner, director, officer, or
14 employee of the mortgage broker is the lender or an owner, part owner, partner,
15 director, officer, or employee of the lender.

16 **12-810.**

17 **AN ACTION FOR A VIOLATION OF THIS SUBTITLE MAY NOT BE BROUGHT**
18 **MORE THAN 3 YEARS AFTER THE VIOLATION OCCURS.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
20 table-funded transactions, as defined in § 12-801 of the Commercial Law Article as
21 enacted by Section 1 of this Act, entered into prior to, on, or after the effective date of
22 this Act, but this Act may not be applied to any court action for which a final judgment
23 has been rendered and for which all judicial appeals have been exhausted prior to the
24 effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 June 1, 2012.